

JUN 15 2004

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ANN ARBOR, MICHIGAN 48104-1476

(734) 913-9300

FACSIMILE (734) 913-6007

jposa@patlaw.com

dwathen@patlaw.com

FACSIMILE TRANSMISSION

DATE: June 15, 2004

TO: EXAMINER SUZETTE JACKSON

FACSIMILE NO.: 703/872-9306

FROM: John G. Posa

PAGES TRANSMITTED (INCLUDING COVER SHEET): 12

ORIGINAL DOCUMENTS WILL ____ / WILL NOT X FOLLOW BY MAIL

RE: SN 10/091,846

MESSAGE:

Original documents were mailed on May 13, 2004; received at Patent Office on May 17, 2004, as evidenced by copy of date-stamped postcard. Inasmuch as this is a response to a final rejection, expedited procedure under 37 CFR §1.116 is appreciated.

Information contained in this facsimile may be PRIVILEGED and CONFIDENTIAL. It is intended only for the use of the person or entity named above. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is neither intended nor permissible. If this facsimile has been received in error, please notify us immediately (call collect) and return the facsimile to us.

PATENT

The received stamp of the U.S. Patent and Trademark Office imprinted hereon acknowledges the filing of:

☒ Transmittal Letter ☐ New Patent Application
☐ Page(s) Specifications ☐ Page(s) Claims
☐ Page(s) Abstract ☐ Sheets of Drawings
☐ Small Entity Declaration ☐ Declaration & Power of Atty
☐ IDS, PTO 1449 & Patents ☐ Assignment & Recordation Cover Sheet
☒ Amendment/Response ☒ Check \$251

Other: Terminal DisclaimerInventor: MasiniSerial/Reg No. 10/091,846 Atty Docket No. DPY-1000469Date: 5-13-04 Date Due: 5-13-04☒ Cert. Of Mailing/Express-Mail

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☐ Page(s) Specifications ☐ Page(s) Claims
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GROH, SPRINKLE, 1234 TKOWSKI, P.C. 800 734-913-8300 MI 48104		3701	5-9/20 433
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JUN 15 2004

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**COMBINED AMENDMENT & PETITION FOR EXTENSION OF
TIME UNDER 37 CFR 1.136(a) (Large Entity)**Docket No.
DPY-10004/29

In Re Application Of: Masini

Serial No.
10/091,846Filing Date
March 16, 2002Examiner
S. JacksonGroup Art Unit
3738Invention: **APPARATUS FOR POSITIONING PROSTHETIC COMPONENT PRIOR TO CEMENT INJECTION**TO THE COMMISSIONER FOR PATENTS:

This is a combined amendment and petition under the provisions of 37 CFR 1.136(a) to extend the period for filing a response to the Office Action of January 13, 2004 in the above-identified application.

Date

The requested extension is as follows (check time period desired):

☒ One month ☐ Two months ☐ Three months ☐ Four months ☐ Five months

from: April 13, 2004

Date

until: May 13, 2004

Date

The fee for the amendment and extension of time has been calculated as shown below:

CLAIMS AS AMENDED

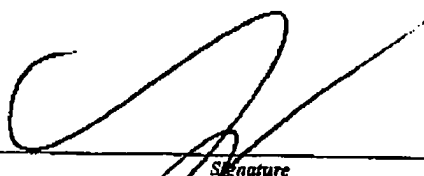
	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST # PREV. PAID FOR	NUMBER EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	24 -	26 =	0	x \$18.00	\$0.00
INDEP. CLAIMS	5 -	4 =	1	x \$86.00	\$86.00
FEE FOR AMENDMENT					\$86.00
FEE FOR EXTENSION OF TIME					\$110.00
TOTAL FEE FOR AMENDMENT AND EXTENSION OF TIME					\$196.00

P28LARGE/REV03

**COMBINED AMENDMENT & PETITION FOR EXTENSION OF
TIME UNDER 37 CFR 1.136(a) (Large Entity)**Docket No.
DPY-10004/29

The fee for the amendment and extension of time is to be paid as follows:

- ☒ A check in the amount of **\$196.00** for the amendment and extension of time is enclosed.
- ☐ Please charge Deposit Account No. _____ in the amount of **\$196.00**
- ☒ The Director is hereby authorized to charge payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. **07-1180**
- ☒ Any additional filing fees required under 37 C.F.R. 1.16.
- ☐ Any patent application processing fees under 37 CFR 1.17.
- ☒ If an additional extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. **07-1180**



Signature

John G. Posa
Reg. No. 37,424
Gifford, Krass, Groh
280 N. Old Woodward Ave., Suite 400
Birmingham, MI 48009
Tel. 734/913-9300

Dated: May 13, 2004

I certify that this document and fee is being deposited
on 5-13-04 with the U.S. Postal Service as
first class mail under 37 C.F.R. 1.8 and is addressed to the
Commissioner for Patents, P.O. Box 1450, Alexandria, VA
22313-1450



Signature of Person Mailing Correspondence

Sheryl L. Hammer

Typed or Printed Name of Person Mailing Correspondence

cc:

**Terminal Disclaimer To Obviate A Double
Patenting Rejection Over A Prior Patent**Docket No.
DPY-10004/29

In Re Application Of: Masini

Serial No.
10/091,846Filing Date
March 6, 2002Examiner
S. JacksonGroup Art Unit
3738

Invention: APPARATUS FOR POSITIONING PROSTHETIC COMPONENT PRIOR TO CEMENT INJECTION

Owner of Record: MedIdea, LLC

TO THE ASSISTANT COMMISSIONER FOR PATENTS:

The above-identified owner of record of a 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,267,785. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors and/or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

Dated: May 13, 2004


Signature

John G. Foss

Typed or Printed Name

- ☒ Terminal disclaimer fee under 37 C.F.R. 1.20(d) included.
☐ PTO suggested wording for terminal disclaimer was unchanged.
☐ Certification under 37 C.F.R. 3.73(b) is required if terminal disclaimer is signed by the assignee.